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June 21, 2005

Via Hand Delivery

Mr. Kenneth H. Blodgett
Environmental Protection Specialist
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Re: **Tongue River Railroad Company, Inc. - Finance Docket 31086 (Sub-No. 3) -
Construction and Operation of the Western Alignment - Draft
Supplemental Environmental Impact Statement**

Dear Mr. Blodgett:

Enclosed please find two letters recently received from the Montana Department of Fish, Wildlife and Parks (DFWP). One of the letters addresses the DFWP's participation in the Board's proceedings as a cooperating agency and the preparation by DFWP of an Environmental Assessment in connection with Miles City fish hatchery mitigation. (I note that you and Ms. Rutson are copied on this letter, but am forwarding a copy in case you haven't yet received your copy.) Please note that we intend to continue our dialogue with the DFWP on its plans to prepare an Environmental Assessment and, in light of the Board's exclusive jurisdiction over the construction of the Tongue River Railroad, will keep the Board fully informed of further developments in this regard.

The second letter from DFWP requests additional information from TRRC for use in connection with the processing of TRRC's easement application. TRRC is developing this information for submittal to DFWP and will continue to work with that agency toward the end of the issuance of an easement to TRRC.

Mr. Kenneth H. Blodgett

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Finally, please note that our client met with DFWP and other state officials at the Miles City Fish Hatchery on May 26, 2005. This meeting provided the opportunity for a further constructive exchange of views between DFWP officials, the Governor's office and TRRC.

Sincerely,

A handwritten signature in black ink, appearing to read "David H. Coburn", with a long horizontal flourish extending to the right.

David H. Coburn

Attorney for Tongue River Railroad Company, Inc.

cc: Ms. Victoria Rutson
Ms. Evelyn Kitay
Mr. Scott Steinwert
Mr. Douglas Day

P. O. Box 200701
Helena, MT 59620-0701
406-444-3186
FAX:406-444-4952
Ref:DO0271-05
June 9, 2005

Mr. Patrick Davison
Tongue River Railroad Company, Inc.
P. O. Box 80902
Billings, Montana 59108-0902

RE: TRRC EASEMENT APPLICATION

Dear Mr. Davison:

Pursuant to our recent conversations, the purpose of this letter is to clarify Montana Fish, Wildlife & Parks' (FWP) position relative to FWP's preparation of an environmental assessment in connection with the processing of Tongue River Railroad Company's (TRRC) application for an easement through property near the Miles City Fish Hatchery. In FWP's letter to you dated March 29, 2005, the general steps necessary for granting an easement to TRRC were summarized, which included the following: conduct current appraisal; negotiate terms of the easement; address the federal aid requirements for disposition of property acquired, upgraded or maintained with federal funds; prepare an environmental assessment and solicit public comment on the easement; and, present the proposed easement to the MT FWP Commission for its action.

FWP would like to clarify its intent relative to preparing the environmental assessment to which was alluded in the March 29 letter. As you are aware, the MT Department of Natural Resources and Conservation (DNRC), acting as lead agency for other Montana state agencies, including FWP, requested and was granted cooperating agency status in connection with the environmental reviews being undertaken in the Surface Transportation Board (STB) proceedings in STB Finance Docket No. 30186 (Sub-No. 3). The purpose of this cooperating agency participation was to aid this agency in fulfilling our regulatory responsibilities and functions, and to avoid duplicative environmental analyses. FWP has actively participated in the STB's environmental processes, which will culminate in the issuance of a Final Supplemental Environmental Impact Statement ("SEIS") in the coming months. In order to comply with the Montana Environmental Policy Act ("MEPA"), FWP will prepare an environmental assessment ("EA") associated with processing the TRRC easement application. The purpose of the EA will not be to duplicate the work reflected in the environmental documents prepared by the STB and the cooperating agencies. Rather, the purpose of the EA is to analyze those steps needed to determine any necessary mitigation measures at the hatchery. The original permit for TRR1 required mitigation of impacts to the hatchery and the EA is the tool FWP uses to analyze those impacts.

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Hopefully this clarifies the intent of FWP with respect to environmental matters relative to the processing of TRRC's easement application related to the Miles City Fish Hatchery. FWP looks forward to working with you and your colleagues in connection with the issuance of that easement.

Sincerely,

M. Jeff Hagener
Director

c: Ms. Victoria Rutson, STB
Mr. Kenneth Blodgett, STB
Mike Volesky
FWP Hatcheries
FWP Lands Unit

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June 9, 2005

Patrick P. Davison
Tongue River Railroad
P O Box 80902
Billings, MT 59108-0902

RE: MILES CITY FISH HATCHERY

Dear Mr. Davison:

After the meeting last week, it became apparent that there is a need to have a better picture of the railroad right of way needs in order to develop a proposed easement document and in order for your appraiser and review appraiser to develop an appraisal report that will meet the standards required under the Uniform Appraisal Standards for Federal Land Acquisition.

In this regard Fish, Wildlife & Parks (FWP) believes the following needs to be accomplished:

1. Recheck the property ownership drawing and make it sufficient to use as a legal description exhibit to a recordable easement document. This means section, township and range, shaded areas of right of way acquisition, proposed construction permit areas, acreage, scale, and references to locatable property boundaries. FWP is providing copies of all the deeds FWP holds for this property for your engineering firm to develop this exhibit. FWP does not expect this to be in final form at this time, but sufficient for negotiation and environmental assessment purposes.
2. Provide an accurate drawing or photo-overlay of the topography showing all improvements including ponds, fences, waterlines, and roads that will be directly impacted. The drawing FWP is now using seems to be lacking some of this basic information. The drawing should show the location of any at grade railroad crossings intended to provide immediate access to water hatchery pumps on the east side of the railroad. Elevation drawings or cross sections would also be helpful.
3. FWP would also like to see any information you have on the impacts to the hatchery from the interstate changes. For instance, if the access road to the southeast will be perpetuated and if the additional fill needed for raising the interstate will reach the hatchery property boundary. If this information is not yet available, can you give FWP an estimate or should FWP ask Montana Department of Transportation?

Thank you for meeting on the property last week. FWP believes it was very helpful to see the proposal together in person.

Sincerely,

M. Jeff Hagener
Director

Encs.

c: FWP Hatcheries
FWP Lands Unit
Mike Volesky
Steve Doherty
Shane Colton